

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**DOREEN B. CROSBY,**

**Plaintiff,**

**v.**

**Civil Action 2:22-cv-716  
Judge Sarah D. Morrison  
Magistrate Judge Chelsey M. Vascura**

**JEFF BAZOS, *et al.*,**

**Defendants.**

**REPORT AND RECOMMENDATION**

This matter is before the undersigned for a Report and Recommendation on the Court's May 27, 2022 Show Cause Order. (ECF No. 14.) For the reasons that follow, it is

**RECOMMENDED** that Plaintiff's claims against several Defendants be **DISMISSED WITHOUT PREJUDICE**.

This case was commenced in the Court of Common Pleas for Franklin County, Ohio on January 10, 2022 (ECF No. 8.), and was removed here on February 15, 2022 (ECF No. 1). Because Plaintiff did not effect service process on Defendant Jeff Bazos ("Defendant Bazos") before removal, she had 90 days after removal to do so. *See Medlan v. Estate of Meyers*, 273 F. App'x 464, 470 (6th Cir. 2008). After Plaintiff failed to serve Defendant Bazos within that 90-day period, this Court issued an Order on May 27, 2022, directing her to show cause within 14 days as to why her claims against Defendant Bazos should not be dismissed and why she should be allowed an extension of time to serve him. (ECF No. 14.) To date, however, Plaintiff has failed to respond to the May 27, 2022 Show Cause Order or serve Defendant Bazos. It is

therefore **RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** against Defendant Bazos pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for failure to timely serve process.

In addition, Defendants Sam Walton, the Walton Family, and Bernard Marcus have not filed an answer or other responsive pleading to Plaintiff's complaint even though they appear to have been served process prior to removal. Nevertheless, Plaintiff never applied for an entry for an entry of default against these Defendants pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. Accordingly, this Court's May 27, 2022 Show Cause Order also directed Plaintiff to show cause within 14 days as to why her claims against these Defendants should not be dismissed for failure to prosecute unless she applied for an entry of default before that. To date, however, Plaintiff has not responded to the May 27, 2022 Show Cause order or applied for an entry of default against these Defendants. It is therefore, **RECOMMENDED**, that this action be **DISMISSED WITHOUT PREJUDICE** against Defendants Sam Walton, the Walton Family, and Bernard Marcus pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

#### **PROCEDURE ON OBJECTIONS**

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days of the date of this Report, file and serve on all parties written objections to those specific proposed findings or recommendations to which objection is made, together with supporting authority for the objection(s). A Judge of this Court shall make a *de novo* determination of those portions of the Report or specified proposed findings or recommendations to which objection is made. Upon proper objections, a Judge of this Court may accept, reject, or modify, in whole or in part, the findings or recommendations made herein, may receive further

evidence or may recommit this matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

/s/ Chelsey M. Vascura  
CHELSEY M. VASCURA  
UNITED STATES MAGISTRATE JUDGE